IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

Bail Appl..No. 7016 of 2007()

CRMP.3817/2007 of II ADDL. DISTRICT COURT, PALAKKAD
[CRIME NO.330/2007 OF CHERPULASSERY POLICE STATION]

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: PETITIONER/2ND ACCUSED

ASHARAF, AGED 48 YEARS, S/O.
MOHAMMEDKUTTY, KURUPPATHU VALAPPIL HOUSE,
THALAPPALY TALUK, TRICHUR DISTRICT.

BY ADV. SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.RAJAN VELLOTH
SRI.SABU SREEDHARAN

RESPONDENTS: STATE

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY DIRECTOR GENERAL OF PROSECUTIONS SRI.P.G.THAMPI

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.7016 of 2007

Dated this the 19th day of November 2007

O R D E R

Application for regular bail. The petitioner is the second accused. Altogether there are six accused persons. They face allegations for offences punishable inter alia under Sections 419 and 394 I.P.C. The crux of the allegations is that as led by accused 1 and 6, a conspiracy was hatched and accused 2 to 4 in a car driven by the fifth accused proceeded to the house of the de facto complainant where the accused persons knew that a precious painting of Raja Ravi Varma was available. The miscreants pretended to be officials of the Special Branch Police. They forcibly took away the painting after threatening the inmates and after misrepresenting them that they are from the special branch police. Complaint was lodged. Crime was registered. Accused 4 and 5 were arrested on 6/10/2007. The petitioner and the third accused were arrested on 16/10/2007. Investigation is in progress. Sixth accused alone remains to be arrested. Accused 1 and 5 who have already been arrested have enlarged on bail by the learned Sessions Judge. The petitioner remains in custody from 16/10/2007. The painting in question which was allegedly taken away by force has already been recovered. Investigation is not complete. Active efforts are afoot to get the sixth accused arrested.

2. The learned counsel for the petitioner submits that the petitioner is innocent. Accused 1 and 5 having already been enlarged on bail, there is no merit in the opposition against the application for regular bail filed by the petitioner. The petitioner may also be enlarged on bail, prays the learned counsel for the petitioner subject of course to any appropriate conditions, submits the learned counsel for the petitioner.

3. The learned Director General of Prosecutions who has appeared in this case opposes the application. The learned Director General of Prosecutions submits that the sixth accused has not been arrested so far. He is avoiding the long arms of law. Releasing the petitioner on bail at this stage would hamper the smooth course of investigation. It is prayed that the investigating officer may be given some further time to complete the investigation and to effect the arrest of the sixth accused. Till then, the petitioner may not be enlarged on bail, prays the learned Director General of Prosecutions.

4. Having considered all the relevant inputs, I am in agreement with the learned counsel for the petitioner that the indefinite detention of the petitioner pending investigation is not necessary. At the same time, I find merit in the request by the learned Director General of Prosecutions that the investigating officer must be given some further time to complete the investigation and I

am satisfied that in the facts and circumstances of this case that the petitioner can be granted bail giving the investigating officer ten days further time to complete the investigation.

5. In the result, this petition is allowed. The petitioner shall be released on bail on the following terms and conditions:

i) The petitioner shall not be released on bail on the strength of this order prior to 30/11/2007. The investigating officer shall, in the meantime, make every endeavour to complete the investigation.

ii) He shall execute a bond for Rs.1,00,000/- (Rupees one lakh only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 12 noon on all Mondays and Fridays, for a period of two months from the date of his release and thereafter as and when directed by the investigating officer in writing to do so.

iv) The petitioner shall not leave the sessions division of Palakkad during the said period of two months without the prior permission of the learned Magistrate.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007